



HOUSE OF REPRESENTATIVES

HB 2240

workers' compensation; modifications
Prime Sponsor: Representative Fann, LD 1

DPA Committee on Insurance

X Caucus and COW

House Engrossed

OVERVIEW

HB 2240 authorizes the change of an administrative law judge as a matter of right and sets the designation of a vexatious litigant.

PROVISIONS

Administrative Law Judge Change

1. Entitles any interested party regarding a hearing for a worker's compensation claim to one administrative law judge change as a matter of right by filing a notice of change.
2. Specifies the notice of change must:
 - a. Be signed by the interested party or the party's authorized agent.
 - b. State the name of the administrative law judge to be changed.
 - c. Certify that the interested party has timely filed the notice of change.
 - i. The notice is timely if filed not more than 30 days after the date of the notice of hearing or not more than 30 days after the new administrative law judge is assigned to the claim if another interested party has filed a notice of change as a matter of right.
 - d. Certify that the interested party has not previously been granted a change for the claim.
3. Clarifies any interested party may file an affidavit that sets forth any of the grounds for an administrative law judge change for cause against a presiding administrative law judge.
4. States an affidavit for an administrative law judge change must be filed with the same time frames as a notice of change.
5. Asserts the employer and the employer's insurance carrier are considered a single party unless the employer's and the employer's insurance company's interest are in conflict.

Vexatious Litigants

6. Authorizes the chief administrative law judge to designate a pro se litigant a vexatious litigant, on the motion of a party in a worker's compensation case.
7. Requires the pro se litigant to respond within 30 days after the motion.
8. Directs the chief administrative law judge to issue an order within 30 days after the pro se litigant's response is received or the time for response has elapsed.
9. Prohibits a vexatious litigant from filing a new request for hearing, pleading, or motion without prior leave of the administrative law judge.
10. Suspends the designation of vexatious litigant during the time the litigant is represented by legal counsel.

11. Stipulates that a pro se litigant is a vexatious litigant if the commission finds the litigant has engaged in vexatious conduct.

12. Defines *vexatious conduct*.

Payment of Interest on Awards

13. Requires interest on the payment of benefits be paid at 10% or at the rate that is equal to 1% plus the prime rate as published by the Board of Governors of the Federal Reserve System, whichever is less.

14. Outlines the instances for when the interest is paid.

Miscellaneous

15. Makes technical and conforming changes.

AMENDMENTS BY INSURANCE COMMITTEE

1. Clarifies the designation of vexatious litigant only applies to the claim at issue before the judge.

2. Adds that only unemployment benefits received during the period of temporary partial disability are considered wages able to be earned.

3. Includes translation services as a medical, surgical and hospital benefit and provides parameters for selecting a translator.

4. Makes technical and conforming changes.

CURRENT LAW

Pursuant to A.R.S. § 23-941, any interested party to a hearing regarding a worker's compensation claim may file an affidavit for change of administrative law judge against any hearing officer of the commission hearing such matter setting forth any of the grounds for the change. An administrative law judge must immediately transfer the matter to another officer of the commission. Statute limits one change to one party.

The grounds which may be alleged for an administrative law judge change are:

1. The judge has been engaged as counsel in the hearing prior to appointment.
2. The judge is otherwise interested in the hearing.
3. The judge is of kin or otherwise related to a party to the hearing.
4. The judge is a material witness in the hearing.
5. The party filing the affidavit has cause to believe that on account of the bias, prejudice, or interest of the judge a fair and impartial hearing cannot be obtained.